

UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS BRANCH OF ACKNOWLEDGMENT AND RESEARCH

**In re FEDERAL ACKNOWLEDGMENT :
PETITION OF THE EASTERN PEQUOT :
INDIANS OF CONNECTICUT :**
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**In re FEDERAL ACKNOWLEDGMENT :
PETITION OF THE PAUCATUCK :
EASTERN PEQUOT INDIANS OF :
CONNECTICUT : AUGUST 1, 2001**

APPENDIX TO COMMENTS OF THE STATE OF CONNECTICUT ON THE PROPOSED FINDINGS ISSUED IN RESPONSE TO THE PETITIONS FOR TRIBAL ACKNOWLEDGMENT OF THE EASTERN PEQUOT INDIANS OF CONNECTICUT AND THE PAUCATUCK EASTERN PEQUOT INDIANS OF CONNECTICUT

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I. THE HISTORY OF STATE RELATIONS DOES NOT SUPPORT ACKNOWLEDGMENT.

Under the 1638 Treaty of Hartford, following the conclusion of the Pequot War, the colonists divided the Pequots among the Narragansetts and Mohegans. They were “no More [to] be called Pequots but Narragansetts and Mohegans” and were not to live in their former country which “now is the English Conquest.” Articles of Agreement between the English in Connecticut and the Indian Sachems, Sept. 21, 1638, Conn. Ind. Pap. IP, II:120, Ex. 36. The BIA has stated elsewhere that this treaty “abolished legally the Pequot as a political entity....” *Mohegan* PF 14. Other Pequots were also assigned to “Nynigrett,” as Eastern Niantic sachem. Major John Mason, *A Brief History of The Pequot War* (Boston: S. Kneeland and T. Green, 1736), in Charles Orr, *History of the Pequot War* (Cleveland: The Helman-Taylor Co., 1897), 40. Both under the 1638 treaty and subsequent proceedings the Eastern Pequot predecessors were required to pay tribute. *See, e. g.*, Articles of Agreement, *supra*, IP,II:120 (requiring payment of “one fathom of Wampampeag,” etc.), Ex. 36; Treaty between English, the Narragansetts and Eastern Niantics at Boston, 1645, Art. 7 (*see BIA Technical Report, Eastern Pequot. Common Historical Background Section for both Petitioner #35 and Petitioner #[1]13, supra*, 31-33; assertions of the Commissioners of the United Colonies from 1650 to 1654, PEP PF 18-19; Sept. 1659 meeting of the Commissioners of the United Colonies, PEP PF 25.

As the BIA Technical Report stated, it is a “serious overstatement” to claim that the Pequot groups were fully autonomous by 1650. *BIA Technical Report, supra*, at 46. The records as of that date do not demonstrate autonomy for the Pequots who had previously been directly assigned to the Narragansetts. *Id.* On the contrary, they were allowed to live only where permitted by the English, *see* Mason, *supra*, 40-44, Harmon Garrett’s 1667 deposition; PEP PF

23; and were subject in all respects to English rule. *See, e. g.*, PEP PF 22, referring to “Pequots Subjecting Themselves to English Rule.” As the BIA has noted, the Pequots were subject to English instructions for their behavior, PEP PF 26, the English appointed Governors over them, namely, Harmon Garrett in 1655 and his successor Momoho by 1678, and upon Momoho’s passing the Connecticut General Court provided “for the council to assume the ‘care and government of the Indians’” who were under him. PEP PF 24, 31, 32. The colony required Indian Governors such as Harmon Garrett to obey the rules and instructions of the Commissioners, and required the Pequots to subject themselves to these persons. PEP PF 24.

Laws for the Pequots were issued in 1675 for the purpose of “the present well governing of the Pequitt Indians that were captives to the English Colonyes in generall & were by their Commissioners put under the gouernment of this Colony, to be both ruled and accomadated by them suitably.” Public Records of the Colony of Connecticut From 1665 to 1678 (J. Hammon Trumbull, ed. Hartford: F. A. Brown, 1852), 574, Ex. 37. Indian Governors and their second in commands were appointed by the English. *Id.*, § 1 at 574-75. Their respective Indians were to obey their lawful commands. *Id.* § 1 at 575. Constables were to be chosen by the principal officer and his council, which, in turn, was selected with the approval of those appointed by the General Court to counsel the group. *Id.* at 574-75, §§ 1 and 2. The constables were not only to keep the peace and carry out the orders of their principals, but also to “attend the commands or warrants from any of our English Magistrates.” *Id.*, § 2. Other laws prohibited blasphemy, violation of the Sabbath, murder, adultery, theft and drunkenness, and also required attendance at religious instruction. *Id.* at 575-76. English officials were also appointed to provide advice and help in difficult cases and “for the well management of their trust and affayres,” to whom the Pequot groups were to go in all cases. *Id.* at 576. After Momohoe had succeeded Harmon Garrett, these

laws were also published as to him and others in 1678. *Id.* at 576; PEP PF 31. The colony, therefore, did not view the Pequot groups as capable of self-government. Instead it established and controlled their governments.

The General Assembly eventually purchased land “for the use of momohoe and his company, &c.” (*BIA Technical Report, supra*, 133) to provide the group “a suitable parcel of land...to settle and plant upon,” and to supply land sufficient for planting purposes. *Id.*, 131, 132. While the Court did refer to the Pequots “under Mawmohoe’s government” (*id.* at 132), there is no evidence it did so in the sense that his group was self-governing. Instead, Momohoe’s “government” had been established and was controlled by the colony itself, as evidenced by the 1675 laws which were republished after he had succeeded Harmon Garrett. *See* Public Records of the Colony of Connecticut, *supra*, Ex. 37; PEP PF 31.

Title to the Lantern Hill land was in the colony and has subsequently been held by the State. *BIA Technical Report, supra*, 152.¹ It is not correct, therefore, to assume that the colony had a relationship with the Eastern Pequots based on any determination that they were a “distinct political community,” which went back to the early 1600’s (*see* PEP PF 64), to the extent this means an organization which satisfies the requirements of criterion (c). To the contrary, the 1638 Treaty was intended to abolish the Pequots as a political entity, and throughout the 1600’s the Eastern Pequots were completely subordinate to English rule, lacked genuine self-government, and were often under a regime controlled by the English.

1 ¹Present statutes, enacted in 1989, provide that while a “tribe” shall exercise on reservation lands “all rights incident to ownership except the power of alienation,” the State holds those lands “in trust in perpetuity to prevent alienation and to insure its availability for future generations of Indians.” Conn. Gen. Stats. § 47-60 (a) and (b). In addition, the Commissioner of Indian Affairs with the advice of the Indian Affairs Council (CIAC) has responsibility for the “care

While English administration evidently became more after the 17th century, the policies of the 1675 laws continued. Subsequent laws reflected this relationship..

The legislature passed an act in 1717 that provided for knowledge of the Gospel, temperance, English type settlements and inheritance of land for Indians in general. *BIA Technical Report, supra*, 140. The colony in 1725 resolved that until the next session “the Care of the Indians in their Severall Tribes in this government be under the Inspection of the Governr & Councill from time to time to regulate, restrain, Set at Large &c as to them shall Seem best.” PEP PF 36. The next year it passed a law to protect lands sequestered for the several Indian tribes. *Id.* In 1727 it passed a law regulating the instruction in Christianity for Indian children bound out to the English. *Id.* Subsequently in 1750 the colony passed “An Act for well Ordering and Governing the Indians in this Colony; and securing their Interests and Lands therein,” *BIA Technical Report, supra*, 145, which provided penalties for liquor and Sabbath violations, and also dealt with education of Indian children who had been bound out. *Id.* The State passed a law in 1796 with virtually the same title. It required again that civil authorities in the towns in which there was any Indian tribe to enforce criminal laws relating to them. *Id.* at 185. It reenacted provisions regarding binding out of Indian children and protection of Indian lands. *Id.*

There is no indication in any of these measures that either the colony or the State viewed the Indians in general and the Eastern Pequots in particular as groups that exercised political influence or authority within the meaning of criterion 83.7 (c). To the contrary, it was the colony and the State which provided for their overall government. .

and management of reservation lands.” Conn. Gen. Stats. § 47-65 (a).

In approximately 1722/1723 and from 1749 to 1751 the General Assembly investigated various land complaints by the Eastern Pequots. *BIA Technical Report, supra*, 143, 147-151; PEP PF 40-41. While extensive inquiries were made into real estate issues and rights, there is no indication from the findings that any investigation was made as to political leadership of the Easterns, and no reports on this subject are cited. *See id.* There do not appear to be any legislative findings on political leadership, *see id.*, nor does it appear that the investigations themselves were initiated by any determination that a group exercising political influence or authority existed. In fact, in response to the 1722 petition, the legislature requested the Governor to order some suitable person to inspect the state of affairs and report if the Indians had been wronged in their use of the lands. *BIA Technical Report, supra*, 143.

In 1763 the colony appointed overseers for the Eastern Pequots, which was the first indication of the appointment of these officials since the 1725 legislation had remanded tribes to the supervision of the governor and council. PEP PF 48. Subsequently there was evidence of colonial recognition of lack of self-governance on the part of this group. In 1766, as previously stated, the Easterns had complained that as a result of lack of attention of their overseers, nothing had been done for the settlement of their affairs and there were "Great Differeance and Difecalty & Troubles" suffered by the group. Conn. Ind. Pap., IP, II:250, Oct. 6, 1766, Ex. 38. In response, the General Assembly appointed overseers "to take the oversight of Sd Indians and there Estates." Conn. Ind. Pap., IP, II:251, Oct. 1766, Ex. 38.

Less than 20 years later, after the Easterns had petitioned for new overseers because there was no one to proportion the herbage profits fairly, some of the Indians had refused to bear their share of the expenses, and they needed someone to "superintend our general concerns" (Conn. Ind. Pap. IP, II:252, May 3, 1788, Ex. 39), the legislature granted their request. Conn. Ind. Pap.

IP, II:253, May 1788, Ex. 39. In so doing, the Assembly vested those officials with “full Power and Authority to Superintend order & Direct them the Said Tribe of Indians in their Business and affairs.” *Id.* Far from acknowledging political authority on the part of the group, the legislative response was premised on the lack of it.

Throughout the 19th century and for the period of the court appointed overseers in the 20th century through 1935, the basic purpose of State oversight was to protect the group from trespassers and provide support and assistance for aged members (*e. g.*, Conn. Ind. Pap., IP, 2nd, II:106 May 1800, Ex. 40), provide for moral and basic education of Indian children (legislative appointment of committee, Conn. Ind. Pap., IP, 2nd, I:19 May 1815, Ex. 41), and to provide for support for the members of the group through distribution of income, benefits and provisions, and the payment of expenses. *See* overseer reports and accounts, 1823-1935. Legislation during this period provided for appointment of overseers who had care and management of Indian lands, and they were required to use them for the best interests of the Indians, and to provide an annual account with the courts.

The laws also prohibited purchases of Indian lands, providing liquor to Indians, rendering judgments against them for most debts, and providing other protection for Indian lands. *See, e. g.*, Statute Laws of the State of Connecticut, revision of May, 1821, publ. 1824, Title 51, Ex. 42; Revised Statutes of the State of Connecticut 1849, Title XXVI (also prohibiting taking wood from Indian lands without the overseer’s permission), Ex. 43; General Statutes of the State of Connecticut, 1866, Title XXXIII (also adding other provisions regulating sale of Indian land), Ex. 44; General Statutes of Connecticut, Revision of 1887, Title IV, Indians; Conn. Gen. Stat., Rev. of 1902, ch. 242, Ex. 46; Conn. Gen. Statutes Annotated Rev. of 1918, ch. 276, Ex. 47; Conn. Gen. Stats. Rev. of 1930, ch. 272, Ex. 48. None of these statutes indicate they were based on any

finding that the Indian group exercised political influence or authority within the meaning of BIA regulations, or suggested that such influence or authority existed.

The overseers' reports only listed income distributed, benefits provided, and lists of members. Some of the 20th century reports refer to the physical health of members of the group, condition of the houses, unusual expenses, inventories, sale of lumber, payments for clothing, insurance, bank deposits, medical expenses and other like matters. *See, e. g.,* overseer reports, 1912, 1914, 1915, 1916, 1917, 1918, 1919, 1931, Ex. 49. None, however, from 1823 to 1935, with only very few exceptions, ever referred to tribal leadership. The sole exceptions were the report for 1929, which referred to the objection "by the chief of both tribes," Atwood Williams of Providence, R. I., to permission for Franklin Williams to build a home on the Lantern Hill reservation, an objection which the Court overruled, Ex. 50, and the overseer reports and records from 1931-33, containing Atwood Williams' objections, most of which the Court also overruled. EP PF 113. The 1933 Superior Court order also referred to Atwood Williams as the present leader of the Eastern Pequot tribe, and required that applications for membership be sent to him and the overseer. Ex. 51. If there was an objection to membership, the Court--not the group or the purported group leader--would determine the matter. None of the documents referring to Atwood Williams or "Chief Silver Star" indicates the basis of the recognition of leadership. Both documents treated as a leader a person who had the support of only 20% of the members.

From the transfer of all Indian matters to the State Park and Forest Commission in 1935 (Conn. Gen. Stats. 1935 Supp. to 1930 Rev., § 1587c, Ex. 52), through the subsequent transfer to the State Welfare Department in 1941, § 692f (Conn. Gen. Stats. 1941 Supplement, Ex. 53; Conn. Public Act 304, 1961, Ex. 54), to the transfer to the State Department of Environmental Protection in 1973 (Conn. P. A. 73-660, Ex. 55), no State determination of tribal leadership or

political influence or authority appears to be indicated, except for the reference to Atwood Williams for a brief period in the 1930's, as stated earlier.²

To the contrary, State Attorney General Opinions assumed just the opposite. In ruling that Connecticut Indians were not allowed to hunt, fish or trap in the state without a license, the Attorney General advised that Indians “do not have at the present time any tribal organizations.... [T]hey are as completely subject to the laws of this State as any of the other inhabitants thereof.” 21 Conn. Atty. Gen. Rpts. 288-89 (1939), Ex. 57. Subsequently the Attorney General also concluded that Indians were subject to the state fish and game legislation, including licensing. 29 Conn. Atty. Gen. Rpts. 115-118 (1955), Ex. 58. In that opinion the Attorney General noted that there was no evidence that the Connecticut Indian “has executed treaties with, or was ever recognized as a tribal entity.” *Id.* at 116. The basis of the State’s relationship with the Indians was protection, not recognition of any political status. *See id.* at 117. “The Indians of New England have always been regarded as bound by the laws of the state where they live.” *Id.* Even assuming there were early treaties, “still it is a historical fact that the Indians who made such treaties have wholly lost their political organization and existence.” *Id.* Citing De Forest, *History of the Indians of Connecticut*, the opinion referred to the eventual “melting away” of Indian *communitas.* *Id.*

2 ²The State Park and Forest Commission did provide for endorsement of certain applications for admission to a tribe “by the recognized Leader of the tribe, if any,” (Ex. 59), but there is no indication that anyone actually endorsed those applications in that capacity, as opposed to endorsing it as a resident member which was also provided for, in lieu of any recognized leader.

3 Although Mrs. Calvin Williams endorsed a membership application, three other persons never identified by the BIA as even informal leaders also signed it, Ernest F. Saunders, Mrs. Grace Boss, and Mrs. Sarah Holland. EP PF 116. Thus it cannot be determined if Mrs. Williams necessarily signed it as a “recognized leader,” or as a resident member.

An affidavit from a former State Welfare Department official who oversaw the State's four Indian reservations as one of his responsibilities states: "We did not view the various Connecticut Indians as governments or sovereigns but instead viewed them as groups of individuals who could meet the one-eighth blood requirement and who might need assistance." Affidavit of Edward Danielczuk, July 20, 2001, Ex. 60. He also was unaware of any organized political activity or any political leadership of these groups.

An Indian Affairs Council was provided for in the 1973 legislation (P. A. 73-660), which would include representatives from each Connecticut Indian group. There is no indication in that law, however, that the State actually found any group to have exercised political influence or authority.

II. VALIDITY AND RELIABILITY OF INTERVIEW AND ORAL HISTORY EVIDENCE.

The petitioners rely to a very large degree on interview evidence. Such evidence can vary widely in its validity, and caution is required in evaluating its reliability. In particular, professional standards should be followed in the conducting of interview evidence and the collection of oral histories. See H. Russell Bernard et al, *The Problem of Informant Accuracy: The Validity of Retrospective Data*, *Annual Review of Anthropology*, 13:495, 496-97 (1984). Professor Bernard was the editor of *Research Methods in Cultural Anthropology* (cited in *Snoqualmie* Final Determ. Tech. Rep. 69 (internet version). Professor Bernard has observed:.

Informants are inaccurate; memory does decay exponentially with time.... And on top of this there appears to be systematic distortion in how informants recall just about everything. Furthermore, recall may be effected by the subject of the study, by whether informants are aided in their recall in some way during the interview ... [or] by conditions of the interview.

Id. at 509.

The following factors should be considered in assessing informant accuracy:

- 1) Are there any ulterior *motives* which the informant has that might modify his reporting of the situation?...
- 2) Are there any *bars to spontaneity* which might inhibit free expression by the informant? For example, where an informant feels that the affairs of his organization or his own personal life should be put forward in a good light for public consumption, he will hesitate to bring up spontaneously the more negative aspects of the situation.

John P. Deane and William Foote Whyte, "How Do You Know if the Informant Is Telling the Truth?," in *Human Organization* (Summer, 1958), 17:34, 35 (*Field Methods and Technique*) (emphasis in original); see also John J. Poggie, Jr., "Toward Quality Control in Key Informant Data," *Human Organization, Journal of the Society for Applied Anthropology* (1972) 31: 23, 25.

See also Arthur Vidich and Joseph Bensman, “The Validity of Field Data,” in *Human Organization Research, Field Relations and Techniques* (R. Adams and J. Preiss, ed. 1960) 189 (“Much less attention has been given to information variability and distortion due to the informant’s motives and his position in the social structure, although for the anthropologist negligent in reporting his methods, this has always been a classical caveat.”). *See also* BIA Standards (Ex. 61).

III. CRITERION (c): POLITICAL AUTHORITY

A. State Relations Did Not Prevent or Obstruct the Petitioners From Engaging in Political Activity.

As the BAR staff observed:

[T]here is little direct evidence of political authority and influence based on types of documentation which often exists in other tribes from this period such as meeting minutes, newspaper reports of political meetings, this type of thing. What's in the record now really has nothing comparable to the level of, say, Cowlitz or Mohegan. . . .

The material that has been submitted to us thus far does not have that kind of coverage of Pequot activity in the '20's, '30's, '40's, '50's.

FM Tr. 397-98. BAR staff did raise the question as to whether the kind of political activity that would generate meetings was possible in view of the fact that the group was still under State supervision. *Id.* There is no evidence that State guardianship in any way prevented political activity. In fact, the State preserved the reservation, which provided the group with a land base which would have facilitated political process. Thus, the petitioners did not face the limitations of other groups arising from difficulty in maintaining a separate land base. *See Miami* FD, Sum. Crit. 2. The State provided at least some benefits that helped sustain the group.³

There is no evidence that the State prevented the Fourth Sunday meetings. In fact, the State was well aware of them, as indicated by the Williams notebook. There is no indication in that record or any other that the State impeded attendance. "Anybody comes that wants to." EP

⁴ ³*See, e. g.*, available State overseers' reports for the period 1910-1935; *see also* State Park and Forest Commission minutes, March 11, 1936 (regarding use of existing tribal funds or income for any member at the Commission's discretion, and any funds appropriated by the State for the benefit of recognized members living in the state), Ex. 59; State Park and Forest Commission annual report, Ex. 62; State Welfare Department records, Ex. 63. While some of these moneys may have come from the sale of tribal land, there is also evidence of modest appropriations, as well as state collection of interest and rents. *See id.*

PF 115 (quoting J. R. Williams notebook). There is also no evidence that the State prevented Alden Wilson from conducting his activities, including visiting the reservation. *See* Eastern Pequot Burgess interviews, Eleanor Manson, at 30. Nor is there any evidence that the State prevented the various gatherings that are said to have occurred for both groups, both on and off the reservation, which provided the opportunity for political activity, even if, as it turned out, there is no evidence of such activity in the record.⁴ When a person such as Atwood Williams purported to represent the group, the State recognized him as a leader, even if he lacked support from many other group members. *See* EP PF 83, 113-14. Both the overseer records, Superior Court order, and Park and Forest Commission records recognized the role of any purported group leaders that would emerge, even if it turned out that they lacked actual political authority. *See id.*; State Park and Forest procedures for membership applications, providing for endorsement by “the recognized Leader of the tribe, if any....” State Park and Forest Commission Minutes, March 11, 1936. *See also* Affidavit of Edward A. Danielczuk, former State Welfare Department supervisor, Ex. 60 (Welfare Department, to his knowledge, did not prohibit or obstruct political or organized activity by persons qualified to use reservation; although he was unaware of any elections that were held, Welfare Department would not have prevented them; permission would have been granted for members off the reservation to meet with those on the reservation, although

5 ⁴*See, e. g.*, for petitioner #35, BIA Interview, Auto Tour of High Street, with Larry Wilson (no transcriptionist indicated), 6; BIA interview Vivian Lancaster and Connie Eccleston, 19 (Pro-Typists Tr.); William Bingham interview of Alton Smith and Justine Miller, 59, 67, 72 (Falzarano Court Tr.); BIA interview, Darlene Hamlin, Mary Sebastian and Lone Wolf Sebastian, 29 (late 1940’s through 1955) (Falzarano Court Tr.); BIA interview, Donald Sebastian, 34 (Falzarano Court Reporters); for petitioner # 113, BIA interview Linda Strange II, 11 (Pro-Typists); BIA interview, Al Potter, 28 (Falzarano Tr.).

he does not recall that coming up; reservation residents were always free to meet off reservation and to have guests in their homes).

The overseers' duties were very general, requiring the care and management of the tribal lands and money and ensuring that the income was applied to their benefit. *See, e. g.*, Conn. Gen. Stats. Rev. of 1918, § 5167, 5171, 5174. There were no legislative bars to political activity, and no evidence of such restrictions appears in the various overseer reports or other.⁵

In contrast, although State guardianship over the Mohegans ended in 1875 (having been phased out by an 1872 law), the Mohegans nevertheless demonstrated significant political process and governing authority while they were still under State administration, as well as afterwards. Even though they were under state jurisdiction for most of the 19th century, they nevertheless continued to govern their affairs through some form of council. *Mohegan* PF Hist. Rep. 6 (Summary of Evidence). Although still under State administration, the group maintained some control over the 1861 land distribution and provided the initiative for the end of the guardianship system and the granting of State citizenship through the 1872 legislation. *Id.* *See also id.*, Hist. Rep. 26; *see also id.*, Anth. Rep., 25-26, listing Mohegan leaders and councilmen/spokespersons from 1683 to 1900.

⁵The claim by Ms. Agnes Cunha that the overseers did not want the group congregating (BIA interview, 6-7) is not supported by other interviews or by any documentation produced. In fact, it is contradicted by the documentation that anybody could attend the prayer meetings at Emeline Sebastian Williams' home. EP PF 115. This is from the 1941 J. R. Williams notebook, which was recorded in the beginning of the same period of the 1940's and 1950's that Ms. Cunha mentions. Her interview also indicates that the alleged objections were based on the lateness of the hour and complaints from neighbors. *See* BIA Agnes Cunha interview, 6-7. In fact, Ms. Cunha also stated that members would tell the overseers that this was a family picnic, and after a while that is what happened. BIA Agnes Cunha interview, *id.* There is no indication whatsoever that anyone prevented or interfered with those events. *See id.*

Therefore, in light of the significant political authority exercised by the Mohegans when they were still under State administration and the lack of evidence of State interference, there is no reason to relax for these petitioners.

B. Interview Evidence Regarding the Fourth Sunday Meetings.

The interviews generally describe the Fourth Sunday Meetings as prayer meetings or otherwise of a religious nature. *See, e. g.*, petitioner's interviews⁶ of Alton Smith, Idabelle Jordan, Elsie Wilson, and Arthur Sebastian;⁷ The meetings were also described as about an hour long, and "[n]othing big." BIA interview, Vivian Lancaster, Connie Eccleston, Sides I and II (partial), 17 (Pro-Typists Tr.). Another interviewee stated indicated that these meetings were "always a time of prayer." BIA interview, Roy (No last name) 3 (Falzarano Tr.). Geneva Sebastian described the Fourth Sunday meetings that were held at Aunt Kate's house consisted of a religious ceremony, hymns and "a little preaching." BIA interview, Geneva Sebastian 10 (tape 23, Falzarano Court Reporters). She stated laymen would talk, "but it would be about religion. . . . It wouldn't be about Indians." *Id.*⁸ Alton Smith, who may have been one of the older children at the time who was later interviewed, acknowledged that he did not participate in the Fourth

7 ⁶These are the Burgess interviews of the Eastern Pequot petitioner, #35. There is no indication in the record that the Gardners who were not related to the Jacksons were involved in these meetings. *See, e. g.*, TA 7/10-11/01.

8 ⁷Arthur Sebastian also stated that the meetings included prayers, discussions and socializing. He did not say what the discussions involved. He also referred to the prayer meetings on High Street.

9 ⁸Although she also acknowledged that she could not tell today what went on, she did not indicate that the meetings were in any way whatsoever political events. *See id.* While these referred to meetings at Aunt Kate's (presumably Catherine Harris's home), there is no reason to believe that those meetings at Emeline Williams' home (Aunt Liney's) would have been any

Sunday meetings. William Bingham interview Alton Smith and Justine Miller, 26 (Falzarano Court Reporters); BIA interview, Alton Smith, I, II, at 18 (Pro-Typists Tr.). Although he referred to the “talking and religious part” of the Fourth Sunday meetings, he did not indicate what was discussed. *See* BIA Alton Smith Interview, *supra*, at 18.; see also BIA Interview Dinner at home of Margaret Wilson I, at 21, 22.

Betty Fletcher (EP Petitioner interview) stated that at Aunt Liney’s (Emeline Williams) the parents would talk separately, gossip and solve family problems. The statement attributed to her that there were “at least 150 people there” (emphasis in original) has not been substantiated by the BIA. In fact, as stated previously, the BIA found that attendance ranged from 12 to 25. *See also* TA 7/10-7/11/01. Although Darlene Hamlin (petitioner #35’s interviews) is said to have claimed that Aunt Liney served “as a sort of matriarchal political leader,” this is based only on a summary. The actual interview has not been provided, and it cannot be determined whether these were her actual words or the extent to her personal knowledge. In the BIA interview, she does not appear to discuss Aunt Liney. The interview indicates that she was a little girl in the 1940’s, and the Fourth Sunday meetings had ended by then. EP PF 94-95, 99, 117; BIA interview, Darlene Hamlin, Mary Sebastian, Lone Wolf Sebastian, 53 (Falzarano Tr.).

Although Roy Sebastian indicated that Aunt Liney had participated in discussions of tribal business, the context of the interview indicates that she simply participated in the discussions and did not lead them. Roy Sebastian I, II (Pro-Typists transcription) 6. The concerns discussed did not appear any different than the ordinary family issues. When asked specifically about the Fourth Sunday meetings, he replied that he did not remember them. *Id.* at 7. He also stated that

different.

“usually the leaders kept the problems to themselves and then resolved them.” *Id.* at 6. This would indicate lack of “widespread knowledge, communication and involvement in political processes by most of the group’s members.” 25 C.F.R. § 83.7(c)(1)(iii). *See also Miami FD*, Tech. Rep. 68, 76.

C. Interview Evidence Regarding Alden Wilson's Political Authority.

The interview evidence does not demonstrate the exercise of political authority or influence by Alden Wilson. One interview states that he served as an executor of estates because the siblings did not have money to pay off the bills, and that he utilized a power of attorney for that purpose (BIA interview, Marcia Flowers, at 4). This indicates that he furnished services, but does not provide evidence of political influence or authority.

The BIA did not accept petitioner’s claim that Alden Wilson reviewed dealings with the overseer, although it found that Mr. Wilson met with Emeline Williams and her daughter on the reservation. EP PF 117; FM Tr. 413-14.⁹ Furthermore, the overseer system ended in 1935, and while the Park and Forest Commission evidently employed the former overseer to assist them, by 1941 administration had been transferred to the State Welfare Department. Most of Mr. Wilson’s activities relied on occurred after that date, from 1940 to 1960. *See* EP PF 117. Although he wrote a couple of letters to the State on behalf of other people, it is unknown if this was done in a leadership capacity or simply as an educated and prosperous person assisting people. FM Tr. 415-16. In fact, one the BIA interviewees stated: “I didn’t do too much with Aldon [sic] [Wilson]...I

⁹ According to petitioner’s interview summaries, Margaret Wilson stated that Alden Wilson used to meet with the overseer, no specifics or examples are provided, there are issues of her personal knowledge, and there is no indication that the overall group had authorized him to do this. The same is true for Eleanor Hanson’s reported statements regarding the overseers and Aunt Liney and Sadie.

didn't have any contact with him or anything like that...." BIA interview, Vivian Lancaster, Connie Eccleston, Sides I and II (partial) 19 (Pro-Typists Tr.).

D. Interview Evidence Regarding Lack of Political Authority From 1940 to the Present.

The BIA found lack of political influence or authority from 1940 to the present. In addition, the BIA interview data, which while including references to elections and meetings, do not appear to indicate a governing authority over the overall membership. To begin with, there does not appear to have been a continuously existing tribal organization, but instead an organizational effort that began 30 to 40 years ago. BIA interview, Roy Sebastian I and II, 5 (Pro-Typists Tr.). Although Mark Sebastian stated that his uncle, grandfather and his [grandfather's] brother could pull together 200 people in an afternoon, the BIA has not made any findings substantiating this. *See* BIA interview, Mark Sebastian, I, II, III, 10 (Pro-Typists Tr.). There are conflicting claims made for attendance at or frequency of meetings. While Mark Sebastian maintained that they still get the same 200 or 300 people, and that they get 700 people at a pow-wow (which are not indicated to be all Eastern Pequots) (*see id.*, 10, 23), these figures again are not supported by any BIA findings. According to another account, there are 30 to 50 people at general meetings, and three or four might attend tribal council meetings. BIA interview, Tom and Joe Perry, Sides III and IV, 1 (Pro-Typist Tr.). Still another interviewee stated "if we're lucky, we get twenty, thirty people at a meeting," and at the pow-wow, which has not been shown to be exclusively for group members, "maybe a hundred fifty." BIA interview, Larry Sebastian Sides I and II, 12.

According to Larry Sebastian, significant actions were taken without group approval, namely, cutting trees and borrowing money. BIA Larry Sebastian interview, *supra*, 3, 11 (Pro-

Typists Tr.). “If a small body of people carries out legal actions or makes agreements affecting the economic interests of a group, the membership may be significantly affected without political process going on or without even the awareness or consent of those affected.” *Miami* FD, Sum. Crit. 15. Mr. Sebastian also stated that the Council was not doing its job because it was concentrating on Federal recognition and “economic development,” instead of taking care of the tribe’s business. BIA interview, Larry Sebastian 7 (Tape No. 14, Falzarano Tr.). “After all these years ... we were working towards federal recognition ... and nobody helped, and then all of a sudden ... everybody and his brother comes out of the woodwork. Everybody thinks he’s going to get millions.” *Id.* at 10.

There is no evidence in the BIA interview data that petitioner influences membership behavior in significant respects, or, apart from actions not authorized by the members¹⁰ makes decisions for the group which substantially affect the members or represents the group with outsiders in matters of consequence. *See* 25 C.F.R. § 83.1 (definition of political influence or authority). The group’s activities appear to be consistent with those of a voluntary association and not a governing organization.

E. Interview Evidence Regarding the PEP Petitioner's Lack of Political Authority.

BIA interview data confirms the lack of genuine political influence or authority for the PEP Petitioner. The annual meeting as described by Jeff Tingley appears to be little different than that of a voluntary association. BIA interview, Jeff Tingley, Sides I and II, 8 (Pro-Typists Tr.). The interviews do not indicate the actual attendance at these meetings. *See* BIA interview, Beverly Kilpatrick I, II, 17 (Pro-Typists Tr.) (stating that most members try to attend the annual

11 ¹⁰BIA Larry Sebastian interview, *supra*, 3, 11 (Pro-Typists Tr.).

meeting, but not indicating that they actually do, or the specific attendance; also indicating that a lot of members are too far away). Once members realized the group was preparing a petition for acknowledgment, there were a lot more people that started to get involved. BIA interview, Brenda Geer, 31 (Tape No. 30, Falzarano Tr.); *see also* BIA interview, Gina Hogan, 5 (Tape No. 33, Falzarano Tr.). Council meetings were sparingly attended. “[W]e don’t get an overwhelming amount at some of our tribal council meetings.” BIA interview, Beverly Kilpatrick III, 1 (Pro-Typists Tr.). Persons complained “but yet they didn’t come to meetings or . . . find out what was going on . . . or even if they wanted to call if they had concerns.” *Id.*, 1-2. Indeed, at one time, some of the meetings were closed and were only for council members. BIA interview, Frances Young, 41 (Tape No. 41, Falzarano Court Reporters). When Ray Geer was in charge, “tribal council meetings were closed. Members weren’t allowed to come.” BIA interview, James Cunha Sides I and II, 6 (no transcriptionist indicated).

Respectfully submitted,
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CERTIFICATE OF SERVICE

This certifies that the foregoing was served by overnight delivery this 1st day of August, 2001, on the following:

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